

Case No. 4:23-cv-00371

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**UNITED STATES COURT OF APPEALS  
FOR THE SECOND CIRCUIT**

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|------------------------------|---|-----------------------------------|
| Lewis Brooks McKenzie,       | ) | In a removal from the 233rd       |
|                              | ) | Judicial                          |
| Plaintiff - Appellant        | ) | District Court of Tarrant County, |
|                              | ) | TX                                |
| v.                           | ) | State case number: 233-651265-18  |
|                              | ) |                                   |
|                              | ) |                                   |
| STATE OF TEXAS, HOLLY HAYES, | ) | FORMAL DEMAND FOR JURY TRIAL      |
| and KELLI MARIE (RAYBURN)    |   |                                   |
| MCKENZIE,                    | ) | CONSTITUTIONAL CHALLENGES         |
| Defendants-Appellees.        | ) | INJUNCTIVE RELIEF REQUESTED       |
|                              | ) |                                   |

**Appellant Lewis Brooks McKenzie's Appeal of Remand**

Comes now Appellant, Lewis Brooks McKenzie, *pro se*, demonstrating more than mere “good cause” in moving to appeal, by stating thusly:

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## TRUE NATURE OF CASE VS. FLAWED CASE PROCEEDINGS

### [True Nature of Case]

On 17 April 2023, the undersigned Petitioner-Appellant filed Section 1443 removal in the district court (ECF 1), formally raising specific facial challenges to state statutes of Defendant Texas, as absolutely required for the core validity of any Section 1443 removal (which *must* be based upon facial challenges to state statutes), and together with removal also as an original civil action raising fully independent and specifically-identified federal causes of action inextricably intertwined with the very same constitutional challenges raised against the very same state statutes of Defendant Texas and generally about all of the same intertwined matters, including claims separately raised specifically under the federal Consumer Credit Protection Act, the federal False Claims Act, and for racial (and gender) discrimination within public facilities in violation of 42 USC §§ 1981 and 2000b-2.

*See also, the Memorandum for Clerk (ECF 6), i.e., for the *intake* clerk, which is also further entitled as a summary overview of the entire case for the ease of the district court and all parties.*

Within the original removal petition itself, I *did* formally, specifically and duly allege complaining facts about racial discrimination occurring directly within the case context.

Within the original removal petition itself, I formally, specifically and duly cited to applicable federal statutes that prohibit such racial discrimination (again, 42 USC §§ 1981 and 2000b-2).

Accordingly, by the original removal hybrid petition-complaint itself, I had already satisfied the established elements to proceed with Section 1443 removal jurisdiction, namely that I had raised claims under a federal law “*providing for specific civil rights stated in terms of racial equality*” (again, 42 USC §§ 1981 and 2000b-2), and that I had also shown the exception for manifest expression of state law in demonstrating that “an equivalent basis could be shown for an equally firm prediction that the defendant would be ‘denied or cannot enforce’ the specified federal rights in the state court” *Johnson v. Mississippi*, 421 U.S. 213, 421 (1975).

I also filed formal challenges to 28 USC § 1443 itself to legally induce appearance and engagement in these matters by the US-AG and/or local US Attorney.

Upon all four (4) said legal triggers, by that point Statutory Intervenor United States had: (1) an option to intervene, (2) a duty to intervene, (3) another option to intervene, and (4) another duty to intervene, respectively, under the Consumer Credit Protection Act, under the False Claims Act, regarding both racial and

gender discrimination within public facilities, and to defend the constitutionality of federal statute 28 USC § 1443.

Filing said removal under Section 1443 in the nature of a quasi-class action lawsuit (statewide challenge in essence of nature, but focused and narrowly-tailored to facial challenges against state statutes), *never even ONCE did I ever raise* any complaint whatsoever, or any argument whatsoever, or any request for relief whatsoever, in regards to *any* one or more particular state court orders or judgments, *ever* (ECF, *passim*), as the action filed in the district court was never about any particular event within my personal state court case -- via removal and required federal facial challenges to state statutes -- that my *entire state court case* is entirely void *ab initio* and should not even exist... at all..., because it is entirely based upon those very same state statutes herein facially challenged for clear unconstitutionality.

### **[Flawed Case Proceedings]**

The district court refused its clear duties and *never* issued out *either* of the statutorily-required certifications to TX-AG Paxton or to US-AG Garland, and none of opposing counsel ever addressed that required duty (ECF, *passim*), in any way, shape or form (ECF, *passim*), as the object of their joint obstruction of justice was always to ignore, conceal and cover-up those facial challenges to Texas

statutes, and likewise to ignore, conceal and cover-up the fact that I had also and independently raised parallel claims on the same facial challenges via the CCPA, the FCA, and regarding racial and gender discrimination in public facilities.

Neither the district court, nor any Defendant-Appellees, *ever once adequately* addressed any aspect of the formal facial challenges I had duly raised against Defendant Texas' state statutes, in any way, shape or form, as the object of their joint obstruction of justice was always to ignore, conceal and cover-up those facial challenges to Texas statutes, and likewise to ignore, conceal and cover-up the fact that I had also and independently raised parallel claims on the same facial challenges via the CCPA, the FCA, and regarding racial and gender discrimination in public facilities.

Throughout the entirety of the district court proceedings, all same counsel (acted unethically in joint conspiracy to continuously and repeatedly deceive the district court judicial officers, by all said counsel continuously arguing frivolously about my own personal state court case removed, as if I was “improperly” in a federal court to try attacking *particular state court judgments*, but could not identify any particular ostensible state court order that I was supposedly attacking, because I simply was not and never did seek any relief regarding any particular state court order, whatsoever, ever.

Since the goal and object of my facial challenges to state statutes within Section 1443 removal are the same as every other valid removal case in history -- that *the*

*entire state court case be invalidated in its entirety* for being unconstitutionally based upon repugnant state statutes, that declaratory relief, brought in quasi-class action nature on behalf of all similarly-situated citizens of Texas, is the **only** declaratory relief I need, as rendering void *ab initio* my entire state case covers everything I could have claimed via a personal damages lawsuit on its own, hence there was never any need to attempt any collateral attack against any particular state court case order(s) whatsoever.

Nevertheless, all same counsel below (and also listed herein) continued their manifest fraud upon the court, taking their wholly false and frivolous arguments about me supposedly attacking particular state court orders to the point wherein they also went to great and extraordinary lengths to further argue frivolously and falsely that various abstention doctrines should apply -- which same material fraud upon the court was joined by the magistrate in his report and recommendations (ECF 25), and which same material fraud upon the court was expressly approved and adopted by the district court judge via his final opinion (ECF 32).

Of course, abstention doctrines, when they actually *do* apply, still are only *sometimes* applicable in federal cases where the petitioner or plaintiff is actually attacking one or more particular state court orders, but also, of course, abstention doctrines *do not* apply, whatsoever, to cases or causes of action that are statewide class action challenges in their nature and/or otherwise filed on

behalf of a class of similarly-situated victims, and further, abstention doctrines simply do not apply, and cannot apply, in the context of my duly raised claims under the CCPA, under the FCA, and for racial and gender discrimination in public facilities, as all three (3) of those causes of action were and are *original* federal jurisdiction.

The simple fact of the matter herein is that, *still to this very day*, I have never yet even been heard upon my *de jure* claims actually filed and presented, I have never yet been afforded *any* meaningful review of my same claims duly raised, and indeed, the lower district court proceedings were fraught with all manner of obstruction of justice, by all manner of knowing and intentionally fraudulent misrepresentations, all in order to \*prevent\* my actual claims duly raised from ever being heard... at all... ever.

## **CONCLUSION**

Accordingly, for any and/or all of the above good cause reasons, the Court's entry of Remand (ECF 32), induced solely by a wholly fraudulent Motion to Remand (ECF 22), designed to conceal and deceive the true nature of this case, should be now vacated, recalled, or otherwise set aside, modified and/or superseded.

I actually *did* satisfy the elements for Section 1443 removal, and Mr. Arroyo's fraudulent motion to dismiss was not only false about that, but also confirms likewise that the district court itself was erred upon that same matter, and while

reversal of the district court would be one option, it is because the district court proceedings were so completely devoid of ever actually hearing my claims, at all, let alone fully with any actual meaningful review, that the option this Court should employ is one of these, to-wit, to either:

- find that the district court proceedings were clearly insufficient to develop an adequate and true record for purposes of proper appellate review, hence stay this appeal, and remand back to the district court for such further proceedings;
- find that the district court proceedings violated this Appellant's due process rights to be heard, to meaningful review, and/or otherwise find similarly, hence reverse the district court, and remand back to the district court for such further proceedings;
- *or*, order any such other relief reasonable under the circumstances to compel said same such further proceedings.

**WHEREFORE**, your Appellant now formally requests that this appeal be GRANTED, and upon good cause shown, and under the options suggested, moving the Court to find that the district court failed to perform an adequate job in handling the instant removal with original federal claims, and therefore remand back for all such further proceedings, or order substantially similar relief, and your Appellant also hereby moves for all other relief true and just within these premises.

Respectfully submitted,

/s/ Lewis Brooks McKenzie /s/

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Lewis Brooks McKenzie  
706 w. 4<sup>th</sup> Street  
Clarksville, Texas 75426  
Tel: 972-837-5678  
Email: LBMTCU@gmail.com  
*Plaintiff – Appellant*

I hereby certify: that on this 8 day of August, 2023, a true and complete copy of the above *notice of and verified petition for removal and criminal complaint upon human trafficking*, by depositing same via certified first class postage prepaid mail, RRR via USPS, if not performed via formal process server, has been duly served upon:

*(Statutory Intervenor United States)*  
c/o U.S. Attorney General Merrick Garland  
Office of the United States Attorney General  
U.S. Department of Justice  
950 Pennsylvania Avenue, NW  
Washington, DC 20530-0001

*(Statutory Intervenor United States)*  
c/o U.S. Attorney Chad E. Meacham  
Office of the U.S. Attorney TXND  
1100 Commerce Street, 3rd Floor  
Dallas, Texas 75242-1699

*(Cross-Defendant State of Texas)*  
State of Texas  
c/o Secretary of State Executive Office  
P.O. Box 12887  
Austin, TX 78711-2887

*(Cross-Defendant State of Texas)*  
State of Texas  
c/o Attorney General W. Kenneth Paxton  
P.O. Box 12548  
Austin, TX 78711-2548

*(Cross-Defendant Holly Hayes)*  
Holly Hayes  
c/o Child Support Enforcement  
2001 Beach St., STE 800  
Fort Worth, Texas 76103-2300

*(Counter-Defendant Kelli Marie (Rayburn) McKenzie)*  
Kelli Marie (Rayburn) McKenzie  
7913 Hannah St  
Plano, TX 75025-6203

/s/ Lewis Brooks McKenzie /s/

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Lewis Brooks McKenzie

CERTIFICATE OF CONFERENCE

I have attempted to confer with Defendants, but have received no reply to my communications to date.

/s/ Lewis Brooks McKenzie /s/

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Lewis Brooks McKenzie